

REMARKS

This responds to the Office Action dated January 4, 2007.

Claims 1, 7, 11, and 17 are amended. Claims 1-3, 7-13, and 17-24 are now pending in this application.

Objection to the Claims

Claims 7 and 17 were objected due to an informality. Applicant has amended the claims to overcome this objection.

Double Patenting Rejection

Claims 1-3, 7-13 and 17-24 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-36 U.S. Patent No. 6,640,135.

Applicant does not admit that the claims are obvious in view of U.S. Patent No. 6,640,135. However, a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(b)(iv) is enclosed herewith to obviate these rejections.

§102 and §103 Rejection of the Claims

Claims 1 and 11 were rejected under 35 U.S.C. § 102(b) as being anticipated by Hafelfinger et al. (U.S. Patent No. 5,003,975). Claims 3 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hafelfinger et al. (U.S. Patent No. 5,003,975) in view of Darvish et al. (U.S. Patent No. 6,292,693). The rejections are traversed and reconsideration is respectfully requested.

Claim 1 has amended herein to recite a method that comprises outputting pacing pulses using a selected pulse output configuration that defines a selected subset of electrodes and alternately switching between a first pulse output configuration and a second pulse output configuration in accordance with a switching algorithm that comprises switching the pulse output configuration at specified time intervals. Claim 11 has similarly been amended to recite an apparatus configured to output pacing pulses using a selected pulse output configuration that defines a selected subset of electrodes and alternately switch between a first pulse output configuration and a second pulse output configuration in accordance with a switching algorithm

that comprises switching the pulse output configuration at specified time intervals. Applicant does not believe that the limitations of claims 1 and 11 are taught or suggested by the Hafelfinger et al. reference or any other prior art reference of record. Applicant notes that claims 8 and 18, which recite that a pulse output configuration is switched by alternating the polarity of the electrodes of the configuration, were indicated to recite patentable subject matter. Applicant believes that the rejections of claims 1, 3, 11, and 13 have been overcome. Withdrawal of the rejections is respectfully requested.

Allowable Subject Matter

Applicant acknowledges the allowance of claims 21-24.

Claims 2, 7-10, 12 and 17-20 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In view of the foregoing remarks and amendments, Applicant respectfully requests withdrawal of the objections.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (847) 432-7302 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

RODNEY W. SALO ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(847) 432-7302

Date 4-4-07

By J Kevin Parker

J Kevin Parker
Reg. No. 33,024

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 4 day of April 2007.

Name

Paula Sacky

Signature

Paula Sacky